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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/531,631 | 04/14/2005 | Anne Costantini | 27261P108 | 8391 |

8791 7590 10/05/2006

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER

MENEZES, MARCUS

ART UNIT PAPER NUMBER

3677

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/531,631 | Applicant(s) COSTANTINI, ANNE | |
| | Examiner Marcus Menezes | Art Unit 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 19 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim. Claim 19 is based off 17 or 18 and claims 17 and 18 are both based off of claims 14 or 15; thus constituting an improper multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claim 19 has not been further treated on the merits.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 20 recites the limitation "the coil" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,2,13-15 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Esselink (US Patent No. 6,501,430).

Regarding claims 1 and 13, Esselink discloses an electronic button tag for tagging and identifying cattle comprising a transponder (20) fixed in place without compression between the two shell portions, programmable or not, enclosed in a shell (26,28,16,25), said shell comprising an open-ended transverse passage (12), characterized in that the shell is made from two half-shells namely a lower half-shell (or first shell portion) (26,28) and an upper half-shell (or second shell portion) (16,25), which is disposed transversely to the axial passage opening. Further, the upper half-shell (or second shell portion) includes a sleeve (16) with a central opening around a median axis, said sleeve projects outwards from one side of a planar wall (24) and is extended by a cylindrical wall extending from an opposite side of said planar wall to connect with a cylindrical wall (14) of the first shell portion, a planar wall of the first shell portion being connected at its periphery (22) to the second shell portion (25). As for the assemblage of said shell halves including the use of the glue adhesive for the transponder as well as the laser weld, it has been held that the method of forming the device is not germane to the issue of patentability of the device itself. Regarding the adhesive, the specification does allow for other fastening means for the transponder, as long as the transponder is not compressed between the two shell halves. (See the first paragraph of p.3 of the specification). Therefore, this limitation has been given minimal patentable weight. (See Figs. 3,7,9)

Regarding claim 2, Esselink also discloses that the two half-shells are provided with complementary internal and external walls.

Regarding claim 14, Esselink discloses that the cylindrical wall of the first shell portion (14) provides a passage for a punch of a male tag (34), wherein said cylindrical wall of the first shell portion having a conical form and providing a shoulder within the sleeve. (See Figs. 10-11).

Regarding claim 15, Esselink discloses an internal projection that is located between the cylindrical wall and a peripheral rim of the second shell position, the internal projection being of a height less than the distance between the planar walls of the first and second shell portions. (See Fig. 6. The ledge or increase in diameter to the left of the cylindrical wall (16) constitutes said internal projection).

Regarding claim 20 as best understood by the Examiner, Esselink discloses a processor of the transponder is located in a compartment (10). (See col. 3, lines 16-20).

Allowable Subject Matter

6. Claims 3-12, 16-18 and 21-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Menezes whose telephone number is 571-272-6284. The examiner can normally be reached on 8:00am - 5:30pm M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

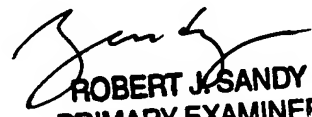
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcus Menezes

Examiner

Art Unit 3677

MM


ROBERT J. SANDY
PRIMARY EXAMINER